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SENATE BILL 633

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO STATE LANDS; AUTHORIZING THE COMMISSIONER OF PUBLIC LANDS, UNDER CERTAIN CONDITIONS, TO ENTER INTO BUSINESS LEASES FOR REAL ESTATE PLANNING OR DEVELOPMENT PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 19-7-9 NMSA 1978 (being Laws 1971, Chapter 93, Section 1, as amended) is amended to read:

"19-7-9. SALE AND LEASE OF STATE LANDS--CONVEYANCE FOR TERM OF YEARS--TERMS AND CONDITIONS.--Any state lands offered for sale by the commissioner of public lands may be sold at the commissioner's discretion for cash or upon payment of not less than one-tenth of the purchase price in cash and payment of the balance in [~~amortize~~] amortized installments for any period up to thirty years with interest on the principal balance at a rate to be set by the commissioner in the notice of auction

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1 pertaining to the particular sale in advance. Additional  
2 payments on the principal may be made at any time, but such  
3 payments shall not be effective for credit until the date the  
4 next installment is due. The purchase contract shall be upon a  
5 form prescribed by the commissioner prior to publication of the  
6 notice of auction and shall contain the terms and conditions  
7 the commissioner may deem to be in the best interest of the  
8 state and consistent with law. Should a purchaser die before  
9 completing ~~[his]~~ the contract, the due date of the next  
10 installment payment shall, upon written application, be  
11 deferred by the commissioner for one year. In addition, the  
12 commissioner is authorized to convey for any period of time  
13 state lands under ~~[his]~~ the commissioner's jurisdiction having  
14 value for commercial development or public use purposes,  
15 ~~[providing]~~ provided that:

16           A. all of the requirements for the disposition of  
17 lands set forth in the constitution of New Mexico and the New  
18 Mexico Enabling Act are complied with, including but not  
19 limited to those pertaining to appraisal at true value,  
20 advertising and public auction; ~~[and that]~~

21           B. the term and nature of the estate to be conveyed  
22 is set forth in the public notice of auction pertaining to the  
23 particular conveyance; and

24           C. if the conveyance is a business lease for real  
25 estate planning or development purposes, the lease shall be

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1 issued pursuant to the provisions of Section 19-7-9.1 NMSA  
2 1978."

3 Section 2. A new Section 19-7-9.1 NMSA 1978 is enacted to  
4 read:

5 "19-7-9.1. [NEW MATERIAL] BUSINESS LEASES FOR REAL ESTATE  
6 PLANNING OR DEVELOPMENT.--The commissioner of public lands may  
7 enter into business leases primarily for the planning and  
8 development of state lands that have potential for commercial  
9 or residential development with such terms and conditions as  
10 the commissioner deems best for the purpose of maximizing  
11 revenue to the state land trust, provided that:

12 A. the commissioner shall, by rule, establish  
13 criteria for selecting lands to lease, selecting lessees and  
14 determining lease provisions;

15 B. the rules shall provide for public notice and  
16 competitive bids to be submitted in the form of development  
17 proposals in response to a request for proposals issued by the  
18 commissioner;

19 C. in addition to fixed periodic lease payments,  
20 the leases may provide for gross or net profits from the  
21 development to be allocated between the commissioner and the  
22 lessee pursuant to terms established in the lease reflecting  
23 the fair market value of master planning or entitlements, but,  
24 in no event shall the commissioner or the state be liable for  
25 any costs of planning or development; and

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1 D. the provisions of Sections 19-7-14 through  
2 19-7-18 and 19-7-51 NMSA 1978 shall apply to the leases only to  
3 the extent that the lessee may be liable under those provisions  
4 for the value of improvements that have been placed on the  
5 property prior to the effective date of the business lease for  
6 planning and development but, unless otherwise stipulated in  
7 the lease, those provisions shall not be applicable to any  
8 improvements or other increase in value resulting from  
9 activities conducted pursuant to the business lease for  
10 planning and development."

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